

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA SMITH, ADMINSTRATRIX	:	
OF THE ESTATE OF MARTHA E.	:	CIVIL ACTION
SMITH; PATRICIA SMITH; MARY J.	:	
SCOTT,	:	NO. 08-05689
Plaintiffs,	:	
	:	
v.	:	
	:	
ALBERT EINSTEIN MEDICAL CENTER;	:	
ET AL.,	:	
Defendants.	:	

Order

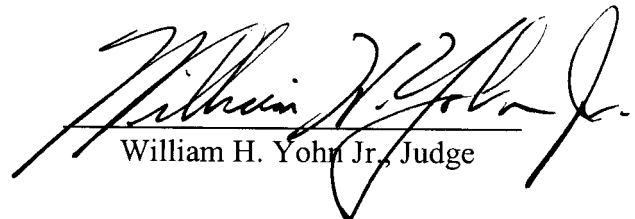
AND NOW on this 11th day of June 2009, upon consideration of defendants' motions to dismiss (Doc. Nos. 7, 9, 13, 14, 16, 17, 20, 23, 34, 37) and plaintiffs' responses thereto, **IT IS HEREBY ORDERED** that:

1. Defendants' motions to dismiss plaintiffs' complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) are **GRANTED** as to plaintiffs' claims of violations of civil rights;
2. Defendants' motions to dismiss plaintiffs' complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED** as to plaintiffs' claim under the Emergency Medical Transfer and Active Labor Act ("EMTALA"), 42 U.S.C. § 1395dd (2006);
3. Pursuant to 28 U.S.C. § 1367(c)(3), the court will decline to exercise supplemental jurisdiction over plaintiffs' state law claims;
4. Plaintiffs' complaint is **DISMISSED** without prejudice to plaintiffs' right to file

an amended complaint within 30 days of the date of this order or to file a complaint in an appropriate state court of general jurisdiction; and

5. Defendants' remaining motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5) and 12(b)(6) and defendants' motions for a more definite statement pursuant to Federal Rule of Civil Procedure 12(e) are **DISMISSED** as moot.

IT IS HEREBY FURTHER ORDERED that defendants' other remaining pending motions to dismiss (Doc. Nos. 38, 39, 53, 57, 58, 61) and defendants' praecipes to enter judgment (Doc. Nos. 54, 55) are **DISMISSED** as moot without prejudice to the right of defendants to reinstate them on the same papers, by letter request, should plaintiffs file an amended complaint.



William H. Yohn Jr., Judge